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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 PATRICIA L. NATION,

7 Plaintiff,

8 v.

9 MICHAEL J. ASTRUE, Commissioner of
10 Social Security,

11 Defendant.

Case No. C09-5190FDB-KLS

REPORT AND RECOMMENDATION

Noted for April 2, 2010

This matter comes before the Court on plaintiff's failure to respond to the undersigned's order to file an opening brief or show cause why this matter should not be dismissed. (Dkt. #26). Plaintiff is proceeding *pro se* in this matter. This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule MJR 4(a)(4) and as authorized by Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). Because, plaintiff has failed to respond to the above order to show cause, the undersigned recommends that her complaint be dismissed.

On December 15, 2009, the undersigned issued an order directing plaintiff to file an opening brief in this matter by no later than January 12, 2010. (Dkt. #25). Because plaintiff did not file an opening brief by that date, on January 26, 2010, the undersigned issued an order directing plaintiff to file her opening brief by no later than February 22, 2010, or show cause why this matter should not be dismissed for failure to prosecute. (Dkt. #25). Plaintiff also was

1 warned that failure to timely file her opening brief would result in a recommendation for such a
2 dismissal. To date, however, plaintiff still has not filed an opening brief.

3 Based on the foregoing discussion, the undersigned recommends that the Court dismiss
4 plaintiff's complaint in this matter (Dkt. #5) for failure to prosecute.

5 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure ("Fed. R. Civ. P.")
6 72(b), the parties shall have **fourteen (14) days** from service of this Report and
7 Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file
8 objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474
9 U.S. 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the clerk is
10 directed set this matter for consideration on **April 2, 2010**, as noted in the caption.

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12 DATED this 5th day of March, 2010.
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16 Karen L. Strombom
17 United States Magistrate Judge
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